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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 JOHNNY MARQUEZ,

11 Petitioner,

12 vs.

13 RENE BAKER, WARDEN, *et al.*,

14 Respondents.
15

Case No. 3:20-cv-00073-RCJ-WGC

**UNOPPOSED MOTION FOR
ENLARGEMENT OF TIME TO FILE
ANSWER TO SECOND AMENDED
PETITION (ECF NO. 20)**

(FIRST REQUEST)

16 Respondents move this Court for an enlargement of time of sixty (60) days from the current due
17 date of September 19, 2022, up to and including November 18, 2022, in which to file their answer to the
18 Second Amended Petition (ECF No. 20). This Motion is made pursuant to FED. R. CIV. P. 6(b) and Rule
19 6-1 of the Local Rules of Practice and is based upon the attached declaration of counsel. This is the first
20 enlargement of time sought by Respondents to file an answer to the Second Amended Petition, and the
21 request is brought in good faith and not for the purpose of delay.

22 DATED: September 16, 2022.

23 Submitted by:

24 AARON D. FORD
25 Attorney General

26 By: /s/ Erica Berrett
27 Erica Berrett (Bar. No. 13826)
28 Senior Deputy Attorney General

DECLARATION OF ERICA BERRETT

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, ERICA BERRETT, being first duly sworn under oath, depose and state as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Senior Deputy Attorney General in the Office of the Nevada Attorney General. I am responsible to represent Respondents in *Johnny Marquez v. Dwight Neven, et al.*, Case No. 3:20-cv-0073-RCJ-WGC, and as such, have personal knowledge of the matters contained herein.

2. This Motion is made in good faith and not for the purpose of delay.

3. The answer to the Second Amended Petition (ECF No. 20) is currently due September 19, 2022. I have been unable with due diligence to timely complete the answer.

4. Since this Court issued its order denying Respondents' motion to dismiss and ordering Respondents to file an answer, I have had to devote my time to drafting and filing several other federal habeas pleadings, including a motion to dismiss in *Sprowson v. Baker, et al.*, 3:20-cv-00170-MMD-CLB; an opposition to motion for stay in *Berman v. Nevada, et al.*, 2:21-cv-01359-APG-BNW; a response to court order in *Voss v. Olsen, et al.*, 3:22-cv-00174-MMD-CLB; an opposition to motion to seal in *Tiaffay v. Johnson, et al.*, 2:20-cv-02257-JAD-EJY; an opposition to motion to stay in *Pritchett v. Gentry, et al.*, 2:17-cv-01694-JAD-CWH; and a motion to dismiss in capital habeas matter *Powell v. Reubart, et al.*, 2:06-cv-01264-KJD-DJA. I am currently working on an answer another capital habeas matter, *Byford v. Reubart, et al.*, 3:11-cv-00112-JCM-CSD, which I need to prioritize, as it is already on a fourth extension.

5. I have been diligently working on my caseload, including working many nights, weekends, and holidays in recent weeks, in addition to normal business hours. However, despite these efforts, I still have not been able to allot enough time to this matter to complete an answer.

6. The Post-Conviction Division of the Nevada Attorney General's Office is presently staffed by 12 full-time post-conviction attorneys, two attorneys who primarily work for other divisions, and one legal researcher who is shared with other divisions. Among other duties, the attorneys in the Post-Conviction Division respond to all federal habeas cases (in the district court and appeal), including both capital and non-capital cases, all state habeas cases involving time-computation issues, challenges

1 to denial of parole, and disciplinary issues (in state district court and appeal), all extradition and rendition
2 matters, all wrongful conviction compensation cases, and all state direct appeals and post-conviction
3 petitions arising from Attorney General criminal prosecutions.

4 7. I contacted Petitioner's counsel regarding this request, and she does not oppose.

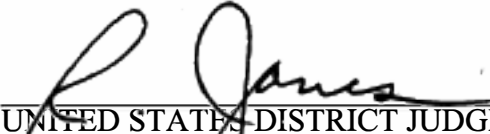
5 8. Based on the foregoing, I respectfully request an enlargement of time of sixty (60) days,
6 up to and including November 18, 2022, to file an answer to the Second Amended Petition.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on September 16, 2022.

9
10 /s/ Erica Berrett
Erica Berrett (Bar No. 13826)

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13 IT IS SO ORDERED:

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16 UNITED STATES DISTRICT JUDGE

17 DATED: September 19, 2022
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *Unopposed Motion for Enlargement of Time to File Answer to Second Amended Petition (First Request)* with the Clerk of the Court by using the CM/ECF system on September 16, 2022.

The following participants in this case are registered CM/ECF users and will be served by the CM/ECF system:

Shelly Richter
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/s/
An employee of the Office of the Attorney General